

# FEDERAL EMERGENCY MANAGEMENT AGENCY

## 44 CFR Part 152

RIN 3067-AC31

### The Arson Prevention Act of 1994— State Grants

**AGENCY:** The United States Fire Administration, FEMA.

**ACTION:** Final rule.

**SUMMARY:** This final rule identifies the eligibility criteria and procedures for States or consortia of States to apply for arson related grants, and it details the evaluation criteria and anti-arson goals the awards are targeted to support.

**EFFECTIVE DATE:** This final rule is effective March 31, 1995.

**FOR FURTHER INFORMATION CONTACT:** Kenneth J. Kuntz, United States Fire Administration, 16825 South Seton Avenue, Emmitsburg, MD 21727, (301) 447-1271, facsimile (301) 447-1102.

**SUPPLEMENTARY INFORMATION:** The Arson Prevention Act of 1994 (Pub. L. 103-254) amends the Fire Prevention and Control Act of 1974 (15 U.S.C. 2220) to make available competitive grants to States or consortia of States, for programs relating to arson research, prevention, and control. Accordingly, FEMA is publishing this final rule to indicate how it will administer the grant program.

FEMA published the proposed rule in the **Federal Register** on Tuesday, September 20, 1994, 59 FR 48277. Comments were invited until November 4, 1994. No comments were received. Therefore, FEMA is publishing the final rule as initially proposed, with minor technical changes.

### National Environmental Policy Act

This final rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Consideration. No environmental impact assessment has been prepared.

### Regulatory Flexibility Act

I certify that this final rule will not have a significant economic impact on a substantial number of small entities in accordance with the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., because the final rule will relate to the procedures that FEMA will use to administer the statutorily mandated grant program, and will have no direct effect on small business or governmental entities. The final rule will not: (1) Affect adversely the availability of grants to small entities; (2) have significant secondary or

incidental effects on a substantial number of small entities; nor (3) create an additional burden on small entities. Accordingly, no regulatory flexibility analysis will be prepared.

### Paperwork Reduction Act

This final rule does not involve any collection of information for the purposes of the Paperwork Reduction Act.

### Executive Order 12866, Regulatory Planning and Review

Promulgation of this final rule is required by statute, 15 U.S.C. 2221 et seq., which also specifies the regulatory approach taken in the final rule. To the extent possible under the statutory requirements of 15 U.S.C. 2221, this final rule adheres to the principles of regulation as set forth in this Executive Order. This final rule has not been reviewed by the Office of Management and Budget under the provisions of E.O. 12866.

### Executive Order 12612, Federalism

The final rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

### Executive Order 12778, Civil Justice Reform

The final rule meets the applicable standards of section 2(b)(2) of Executive Order 12778.

### List of Subjects in 44 CFR Part 152

Administrative practice and procedure, Firefighters, Arson prevention, Grant programs, Reporting and record keeping requirements.

Accordingly, 44 CFR Part 152 is added to read as follows:

## PART 152—STATE GRANTS FOR ARSON RESEARCH, PREVENTION, AND CONTROL

### Subpart A—Purpose, Scope, Definitions

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**Authority:** 15 U.S.C. 2221; Reorganization Plan No. 3 of 1978, 43 FR 41943, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

### Subpart A—Purpose, Scope, Definitions

#### § 152.1 Purpose.

This part establishes the uniform administrative rules under which States or consortia of States will request consideration for competitive arson research, prevention and control grant award(s), and details the associated administrative procedures which will be required of applicants and recipients.

#### § 152.2 Scope.

This part applies to all States or consortia of States requesting competitive consideration of their respective proposals, and all those States or consortia of States actually awarded arson grants under this authority.

#### § 152.3 Definitions.

*Administrative costs* means those actual expenses incurred by a grantee to oversee and execute the specific administrative provisions of the grant award, including as appropriate the provision of grant related monitoring services and reporting requirements, and the nominal purchase of necessary equipment and expendable supplies to support the administration of the grant.

*Administrator* means the Administrator of the United States Fire Administration.

*Grantee* means the State, consortia of States, or State and consortia of States identified as recipients of grant awards under this part.

*Prevention and control* means the aggressive intervention strategies, methods, and materials developed or relied upon to minimize the occurrence and effects of arson.

*Program costs* means the actually incurred expenses related to the development, delivery, training, research or other activities proposed and subsequently authorized by the grant award and other appropriate controls.

*Reporting methodology* is the means by which a jurisdiction provides arson data to the National Fire Incident Reporting System (NFIRS) or the Uniform Crime Reporting (UCR) programs.

*Research* means the application of conventional scientific and statistical methods to assess a particular issue, application methodology, intervention or mitigation strategy in an effort to advance the collective scientific body of

knowledge related to the nation's arson problem.

*Resources* means tangible capability enhancements including but not limited to the purchase of program related equipment, services, materials, and expendable supplies.

*Responsible official* means the individual specifically authorized to act as the accountable Agent of the State for purposes of administering the grants awarded under this part.

*State* means any State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, the Canal Zone, Guam, American Samoa, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

*State consortia* means a cooperative and collective group of more than one State, (or State equivalents as noted above).

## Subpart B—Competitive State Grants

### § 152.4 Grant goals.

Grant applications for these grant awards must promote one or more of the following 10 goals:

(a) To improve the training by States leading to professional certification of arson investigators in accordance with nationally recognized certification standards. Certification of arson investigators is to be accomplished in accordance with State guidelines, by appropriate State authorities.

(b) To provide resources for the formulation of arson task forces or interagency organizational arrangements involving police and fire departments and other relevant local agencies, such as a State arson bureau and the office of a fire marshal of a State.

(c) To combat fraud as a cause of arson, and to advance research at the State and local levels on the significance and prevention of fraud as a motive for setting fires.

(d) To provide for the management of arson squads including:

(1) Training courses for fire departments in arson case management including standardization of investigative techniques and reporting methodology;

(2) The preparation of arson unit management guides; and

(3) The development and dissemination of new public education materials relating to the arson problem; proposals should address all three subactivities in support of the management of an arson squad.

(e) To combat civil unrest as a cause of arson, and to advance research at the State and local levels on the prevention and control of arson linked to urban disorders.

(f) To combat juvenile arson, such as juvenile fire setter counseling programs and similar intervention programs, and to advance research at the State and local levels on the prevention of juvenile arson.

(g) To combat drug-related arson, and to advance research at the State and local levels on the causes and prevention of drug-related arson.

(h) To combat domestic violence as a cause of arson, and to advance research at the State and local levels on the prevention of arson arising from domestic violence.

(i) To combat arson in rural areas and to improve the capability of firefighters to identify and prevent arson initiated fires in rural areas and public forests.

(j) To improve the capability of firefighters to identify and combat arson through expanded training programs, including:

(1) Training courses at the State fire academies; and

(2) Innovative courses at the National Fire Academy (NFA) and made available to volunteer firefighters through regional delivery methods, including teleconferencing and satellite delivered television programs.

(k) Proposals addressing goals in paragraphs (a), (i), and (j) of this section would be encouraged to rely, at least in part on training course materials and offerings currently available through the NFA. Proposals should specifically identify which training components would be utilized and how they would be delivered. In the event Course content, other than that available from the NFA is proposed, the applicant will include copies of the proposed training materials with the proposal.

(l) In addition, applicants should make specific reference in their proposal(s) as to those efforts being made to provide improved and more widely available arson training courses which demonstrate particular emphasis on the needs of volunteer firefighters.

### § 152.5 State qualification criteria.

Each State or consortium of States will demonstrate by appropriate means and provide such assurances as are deemed adequate by the Administrator that the State, or consortium of States:

(a) Will obtain at least 25 percent of the cost(s) funded by the grant, in cash or in kind, from non-Federal sources.

(1) *State's contribution.* Applicants will identify the source and amount of their respective contribution (in cash or in kind) in the work plan and budget detail sections of the application.

(2) Cash contributions will be sourced or certified by responsible authority to

be derived entirely from non-Federal sources.

(3) In kind contributions will be specifically detailed and clearly demonstrate the type, nature, value and quantity of the contribution offered to satisfy this requirement. The applicant(s) may offer current staff in support of the contribution requirement, insofar as the offering would not effect the restriction against decreasing the prior levels of spending detailed in paragraph (b) of this section.

(4) In kind contributions will also be sourced and certified to be derived from non-Federal sources.

(b) Will not as a result of receiving the grant decrease the prior level of spending of funds of the State or consortium from non-federal sources for arson research, prevention, and control programs. The applicant(s) will provide a concise overview of the level of funding dedicated to these areas for each of the two previous fiscal years. This information will be included in the grant file and is subject to post audit reviews. The applicant's responsible official will provide appropriate certification that the recipient is cognizant of this condition of award, and that no diminution of funding is to result in such anti-arson efforts in the event of a grant award. Violation of this grant award condition may subject the recipient to termination of the grant, and forfeiture of unused portions of grant funds, and other applicable administrative or criminal sanctions.

(c) Will use no more than 10 percent of the funds provided under the grant for administrative costs of the programs. Actual administrative cost incurred, not to exceed 10 percent for the funds provided, may be funded through the grant. It is recognized that the administrative costs may exceed the allocation limit, in such cases the additional expense will be born by the recipient. Excess administrative costs will *not* be considered part of the recipients required 'contribution' as noted in paragraph (a) of this section; and

(d) Is making efforts to ensure that all local jurisdictions will provide arson data to the National Fire Incident Reporting System (NFIRS) or the Uniform Crime Reporting (UCR) program.

(1) The State, or consortia of States, will provide, as part of the application process, such information as will describe its current efforts to ensure that all local jurisdictions will provide data to NFIRS or UCR.

(2) This description should include the current level of local jurisdiction participation in each of the respective

data collection programs. It should detail the State's reporting criteria, and data collection requirements, and statutory reporting mandates, if applicable. It should specifically identify the constructive efforts (both incentives and penalties to local jurisdiction's participation) underway to achieve complete reporting, and identify the actions, if any, to be taken under the proposed grant to achieve the participation target; and

(e) Has a policy to promote actively the training of its firefighters in cardiopulmonary resuscitation (CPR). The applicant(s) may demonstrate their fulfillment of this requirement by providing a true copy of the policy with the proposal, or by such other means as would reasonably attest to the applicant's active promotion of CPR training for all firefighters.

#### **§ 152.6 Grant application procedures.**

(a)(1) Applicants, both singly and in consortia, must format their proposals so as to assure the grant goal(s) identified in § 152.4 are clearly addressed and that the work plan descriptions of the level of effort, program activity, and program budgets are specific to each of the selected target goals.

(2) The legislation directs that awards be made in support of each of the ten (10) goals enumerated in § 152.4. The competitive evaluation of the proposals will be done on a goal by goal basis, and the grant awards will be made accordingly. In effect, all of the proposals received that address, for example § 152.4(a), will be reviewed against the competitive evaluation criteria detailed in § 152.8 in relation to achieving that goal. The best overall proposal will be the recipient of the award. Each of the other proposals offered in support of each of the other goals will likewise be assessed. The State or consortia of States may submit proposals addressing more than one of the goals. Applicants must however insure that the proposal detail is separable in its entirety, goal by goal. States, or consortia of States, applying for the competitive grants available under this section will comply with and are bound by all of the applicable provisions of 44 CFR parts 13 and 14 with respect to the Uniform Administrative Requirements for Grants to State Governments, and the Administration of Grants: Audits of State Governments.

(b) The application will identify the requestor's status as a:

- (1) State; or
- (2) Consortium of States, (detailing each of the States in the consortium).

(c) The application will specifically identify both the responsible State organizational element (e.g., the Office of the State Fire Marshal) and the responsible Official/Individual who will administer the grant in the event of an award. Grant requests from consortia of States will include this information for each of the States, and will identify which one of these responsible Officials will serve as the grant's administrative coordinator with USFA.

(d) The information provided will include the following:

- (1) The applicant's complete organizational title;
- (2) The applicant's complete mailing address;
- (3) The name and title of the State's designated responsible Official;
- (4) The responsible Official's complete mailing address; and
- (5) The responsible Official's telephone and facsimile numbers.

(e) The application will indicate specifically which of the 10 grant goals in § 152.4 the proposed grant activities are intended to address. Consortia proposals may propose that each of the consortia States address a particular goal or group of goals singularly, or the States may approach the selected goals, in part or in whole, collectively.

(f) The application will provide specific work plans which detail the means by which the applicant(s) intends to pursue the selected goal's attainment through the grant. The work plan will include the overall level of effort envisioned as a result of the proposed grant's implementation, the specific tasks and time lines to be accomplished, the resources both human and material that will be applied to the effort (including the means by which the utilization of these resources will be accounted for), and the means and methods that will be utilized to assess and evaluate the accomplishment of the targeted goals.

(g) Each applicant will submit a detailed grant program budget which addresses, by goal specific reference, how the grant funds, both administrative and programmatic, will be disbursed. The grant proposal budget element will specifically distinguish between "administrative costs" and "program costs" consistent with the requirements noted herein. No more than 10 percent of the funds provided under the grant will be used for the administrative costs of the program. This restriction does not preclude the applicant(s) from proposing a greater level of effort or resource dedication to administrative activity, it simply limits the costs to be supported through the grant funding. Each of the States in a

consortium may request support for actual administrative costs of no more than 10 percent of its respective program expenses.

#### **§ 152.7 Available funds and application submission.**

(a) Funds may be appropriated in Fiscal Year 1995 to support grant awards addressing the ten (10) goals of § 152.4. No grant awards would be made in Fiscal Year 1995 or future years unless and until funds are appropriated.

(b) Reasonable efforts will be made to award a grant addressing each of the enumerated goals in an expeditious manner. Upon completion of the initial competitive evaluations and the resulting grant awards, any goal(s) yet unattended will be identified and may become the subject of a second round of applications solicitation, consideration and grant award(s). Grant proposals should be formatted to address specifically the incremental use of the currently available (FY 1995) funds, and target the possible use of FY 1996 funds if made available, as logical programmatic extensions or replications of the activities proposed and supported by FY 1995 funds.

(c) Following the comment period and the publishing of the final rule incorporating these procedures, a formal announcement of grant availability will be issued in the **Federal Register**. Applicants will be afforded a period of not less than 30 and not more than 45 days, following the formal announcement, to submit applications. It is anticipated that the initial grant awards will be made during the first quarter of calendar year 1995. In the event awards are not made in support of each of the ten goals, a second Notice of Availability, addressing the unattended goals, may be published in the **Federal Register** and awards will be targeted to occur before September 30, 1995.

#### **§ 152.8 Competitive evaluation criteria.**

Each grant application/program proposal received will be competitively assessed against the following criteria:

- (a) The degree to which the proposal is seen to address the targeted goal or each goal in a combination of goals;
- (b) The scope and effect of the proposed initiative in relation to the proposed program cost;
- (c) The degree to which the proposed activity supports a "model program initiative" suitable for replication in other jurisdictions;
- (d) The degree to which the proposed activity demonstrates an effective and efficient integration of a variety of program resources;
- (e) The degree to which the proposed activity could sustain itself upon the

completion of the grant performance period;

(f) The degree to which the proposed activity would target intervention strategies addressing high-risk groups, properties, or specific conditions.

(g) The degree to which the activity proposed would produce a lasting antiarson program, initiative, or other such appropriate outcome;

(h) The degree to which the proposed activity promotes the introduction of new technology, innovative techniques, or nontraditional approaches to reduce the nation's arson problem;

(i) The degree to which the proposed activity relies upon the development of intergovernmental, interorganizational, or community involving "partnerships" to promote goal attainment; and

(j) The degree to which the proposed activity supports the enhanced ability to collect arson data.

#### **§ 152.9 Reporting requirements.**

(a) Each State, or consortium of States, which is the recipient of a grant under this authority, by acceptance of the award, agrees to provide to the satisfaction of the Administrator and in timely fashion, any and all such documentation as may be requested or required to detail the methods and amounts of grant funds disbursement and such other record keeping, retention of records and the additional provision of information by the Grantee as may be required by the awarding Agency and applicable regulation.

(b) The reporting requirements will consist of primarily the two following types:

(1) Quarterly progress and financial status reports; and

(2) Final progress report and financial status report. The final progress report will include a summary evaluation of the program related activities under the

grant. It will identify the evaluation methodology and the assessment values applied to critique the grant's effectiveness in relation to achieving the targeted goal(s).

#### **Subpart C—Administration**

##### **§ 152.10 Extension.**

The Administrator has discretionary authority to extend the duration of grants made under this part for one or more additional periods. Grant recipients desiring an extension of the grant performance period, will request such extensions in writing at least sixty (60) days prior to the expiration of the grant period. The request will include the reason for the requested extension, a description of the effect(s) on the program if the extension is not granted, and a statement that no additional federal funds would be necessary to support the grant activities during the extension period. Grant extension requests may not be utilized to request additional funding.

##### **§ 152.11 Technical assistance.**

The Administrator shall provide technical assistance to States in carrying out the program(s) funded by grants under the Act. This assistance will consist of providing the customary and usual information on the application process, deadlines, program and financial reporting requirements, and related grant program activities support. This provision is not intended to suggest that USFA will provide other than grant related support and technical assistance. Grant proposals should not suggest or rely upon other program related services, staff support or monies from USFA to be any part of the proposed grant activities, except as provided in this part.

##### **§ 152.12 Consultation and cooperation.**

The Administrator would consult and cooperate with other Federal agencies to enhance program effectiveness and avoid duplication of effort, including the conduct of regular meetings initiated by the Administrator with representatives of other Federal agencies concerned with arson and concerned with efforts to develop a more comprehensive profile of the magnitude of the national arson problem.

##### **§ 152.13 Audits.**

In accordance with applicable regulations, all the grants awarded under this part and all records of the recipient would be subject to audit by appropriate Federal Emergency Management Agency staff or other responsible authority.

##### **§ 152.14 Penalties.**

The recipient designated responsible official or others who provide information or documentation to federal officials in connection with the activities or funds authorized by or expended through these grants are subject to, among other laws, the criminal penalties of 18 U.S.C. 287 and 1001, which punish the submission of false, fictitious or fraudulent claims and the making of false, fictitious or fraudulent statements. Such actions are punishable by the imposition of a fine not to exceed \$10,000.00 or imprisonment for not more than five (5) years, or both. Such a violation may also subject the responsible official to the civil penalties set out in 31 U.S.C. 3729 and 3730.

Dated: February 16, 1995.

**Harvey G. Ryland,**

*Deputy Director.*

[FR Doc. 95-4415 Filed 2-28-95; 8:45 am]

BILLING CODE 6718-26-P